

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Joseph E. Caceres, Esq. (SBN 169164) Charles Shamash, Esq. (SBN 178110) Caceres & Shamash, LLP 8200 Wilshire Boulevard, Suite 400 Beverly Hills, California 90211 Telephone: (310) 205-3400 Facsimile: (310) 878-8308 Email: cs@locs.com <input type="checkbox"/> Respondent appearing without attorney <input checked="" type="checkbox"/> Attorney for Respondent Debtor	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION	
In re: ZIA SHLAIMOUN, Debtor(s).	CASE NO.: 8:17-bk-10976-TA CHAPTER: 7
	RESPONSE TO MOTION REGARDING THE AUTOMATIC STAY AND DECLARATION(S) IN SUPPORT
	DATE: 04/18/2017 TIME: 10:00 am COURTROOM: 5B PLACE: U.S. Bankruptcy Court 411 West Fourth Street Santa Ana, CA 92701
Movant: HYBRID FINANCE, LTD.	

Respondent: ☒ Debtor ☐ trustee ☐ other:

NOTE REGARDING FILING AND SERVICE OF RESPONSE, EXHIBITS AND DECLARATIONS:

A copy of the Response, exhibit(s) and declaration(s) must be served upon:

- (1) Movant's attorney (or Movant, if Movant does not have an attorney);
- (2) the trustee; and
- (3) the judge who presides over this bankruptcy case.

Then the document must be filed with the court.

1. ☐ **NONOPPOSITION**

The Respondent does not oppose the granting of the Motion.

2. ☐ **LIMITED OPPOSITION**

- a. ☐ Respondent opposes the Motion only to the extent that it seeks immediate relief from stay. Respondent requests that no lock out, foreclosure, or repossession take place before (*date*): _____ and the reason for this request is (*specify*): _____
- b. ☐ As set forth in the attached declaration of the Respondent or the Debtor, the motion is opposed only to the extent that it seeks a specific finding that the Debtor was involved in a scheme to hinder, delay or defraud creditors.
- The Debtor:
- (1) ☐ has no knowledge of the Property.
- (2) ☐ has no interest in the Property.
- (3) ☐ has no actual possession of the Property.
- (4) ☐ was not involved in the transfer of the Property.
- c. ☐ Respondent opposes the Motion and will request a continuance of the hearing since there is an application for a loan modification under consideration at this time. Evidence of a pending loan modification is attached as Exhibit _____.

3. ☒ **OPPOSITION:** The Respondent opposes granting of the Motion for the reasons set forth below.

- a. ☒ The Motion was not properly served (*specify*):
- (1) ☒ Not all of the required parties were served.
- (2) ☒ There was insufficient notice of the hearing.
- (3) ☐ An incorrect address for service of the Motion was used for (*specify*):
**Chapter 7 Trustee Thomas Casey was not served as motion was filed just before his appointment in case, which was converted from Chapter 13 on or about March 28, 2017, the same day motion was filed.
- b. ☒ Respondent disputes the allegations/evidence contained in the Motion and contends as follows:
- (1) ☐ The value of the Property is \$ _____, based upon (*specify*): _____
- (2) ☐ Total amount of debt (loans) on the Property is \$ _____.
- (3) ☐ More payments have been made to Movant than the Motion accounts for. True and correct copies of canceled checks proving the payments that have been made are attached as Exhibit _____.
- (4) ☐ There is a loan modification agreement in effect that lowered the amount of the monthly payments. A true and correct copy of the loan modification agreement is attached as Exhibit _____.
- (5) ☐ The Property is necessary for an effective reorganization. Respondent filed or intends to file a plan of reorganization that requires use of the Property. A true and correct copy of the plan is attached as Exhibit _____.
- (6) ☐ The Property is fully provided for in the chapter 13 plan and all postpetition plan payments are current. A true and correct copy of the chapter 13 plan is attached as Exhibit _____ and proof that the plan payments are current through the chapter 13 trustee is attached as Exhibit _____.
- (7) ☐ The Property is insured. Evidence of current insurance is attached as Exhibit _____.

- (8) ☐ Movant's description of the status of the unlawful detainer proceeding is not accurate.
- (9) ☒ Respondent denies that this bankruptcy case was filed in bad faith.
- (10) ☐ The Debtor will be prejudiced if the Nonbankruptcy Action is allowed to continue the nonbankruptcy forum.
- (11) ☒ Other (*specify*):
**Any order should state that the stay will remain in effect as to enforcement of any resulting judgment against Debtor or Estate except Movant retains right to file POC or 523/727 action if appropriate.

c. ☐ Respondent asserts the following as shown in the declaration(s) filed with this Response:

- (1) ☐ The bankruptcy case was converted from chapter ____ to chapter ____.
- (2) ☐ All postpetition arrearages will be cured by the hearing date on this motion.
- (3) ☐ The Property is fully provided for in the chapter 13 plan and all postpetition plan payments
☐ are current, or ☐ will be cured by the hearing date on this motion.
- (4) ☐ The Debtor has equity in the Property in the amount of \$ _____.
- (5) ☐ Movant has an equity cushion of \$ _____ or _____% which is sufficient to provide adequate protection.
- (6) ☐ The Property is necessary for an effective reorganization because (*specify*):
- (7) ☐ The motion should be denied because (*specify*):
- (8) ☐ An optional memorandum of points and authorities is attached in support of this Response.

4. EVIDENCE TO AUTHENTICATE EXHIBITS AND TO SUPPORT FACTS INSERTED IN THE RESPONSE:

Attached are the following documents in support of this Response:

- | | |
|--|---|
| <input type="checkbox"/> Declaration by the Debtor | <input type="checkbox"/> Declaration by the Debtor's attorney |
| <input type="checkbox"/> Declaration by trustee | <input type="checkbox"/> Declaration by trustee's attorney |
| <input type="checkbox"/> Declaration by appraiser | <input type="checkbox"/> Other (<i>specify</i>): |

Date: 04/10/2017

CACERES & SHAMASH, LLP

Printed name of law firm for Respondent (if applicable)

Charles Shamash

Printed name of individual Respondent or attorney for Respondent

/s/ Charles Shamash

Signature of individual Respondent or attorney for Respondent

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
8200 Wilshire Blvd., Suite 400, Beverly Hills, CA 90211

A true and correct copy of the foregoing documents entitled (*specify*): RESPONSE TO MOTION REGARDING THE AUTOMATIC STAY AND DECLARATION(S) IN SUPPORT will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 04/10/2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Eric V Anderton eanderton@catanzarite.com, bphillips@catanzarite.com
- Thomas H Casey (TR) msilva@tomcaseylaw.com, thc@trustesolutions.net
- Timothy P Dillon tdillon@dillongerardi.com, rabrera@dillongerardi.com -----ATTORNEYS FOR MOVANT
- Scott L Keehn scottk@keehnlaw.com, chrisf@keehnlaw.com
- Charles Shamash cs@locs.com, generalbox@locs.com
- United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov
- Zann R Welch ecfnofices@ascensioncapitalgroup.com

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:**

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 04/10/2017, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Bankruptcy Judge:

The Honorable Theodor C. Albert, U.S. Bankruptcy Judge - *Via Overnight Delivery*
United States Bankruptcy Court
411 West Fourth Street, Suite 5085
Santa Ana, CA 92701

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

04/10/2017

Date

Charles Shamash

Type Name

/s/ Charles Shamash

Signature